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(1)

BEFORE THE HIGH COURT OF CHHATTISGARH AT BILASPUR.

WRIT PETITION NO. 2622 /04(SB).

PETITIONER : Smt. Nanda Soni, aged about 29 years, W/o. Rajesh Kumar Soni, R/o. House no. 64-A/ Central Avenue, Smritinagar, Bhilai, Distt. Durg (C.G.).

P. R. No. 26-32/04
Presented by Shri Rajesh Jaiswal
dated 14-6-04

V E R S U S

RESPONDENTS : 1) Rajesh Kumar Soni, aged about 32 years, S/o. Shri Lekhram Soni, R/o. House no. 155-D, Risali Sector, P.O. Bhilai Distt. Durg, (Chhattisgarh).

2) Fifth Addition District Judge, Durg, P.O. & Distt. Durg (C.G.).

14/6/04

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION FOR ISSUANCE OF A WRIT OF CERTIORARI AND MANDAMUS AND ANY OTHER WRIT/DIRECTION/ORDER.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 2622/2004 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

21.9.2004

Shri B.R. Ghosh, counsel for the petitioner.

The petitioner has filed this writ petition under Article 226/227 of the Constitution of India being aggrieved by the order dated 25.6.2004 passed by the 5th Additional District Judge, Durg, whereby the application of the petitioner filed under Section 27 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act'), has been rejected.

I have heard the learned counsel for the petitioner.

Learned counsel for the petitioner submits that the petitioner's application filed under Section 27 of the Act has been rejected before the decree was passed and without denying the fact by the petitioner made the application supported by affidavit.

In this connection, Section 27 of the Act lays down that

> *"In any proceeding under this Act, the court may make such provisions in the decree as it deems just and proper with respect to any property presented, at or about the time of marriage, which may belong jointly to both the husband and the wife".*

Therefore, the learned Additional District Judge ought to have passed the order under Section 27 of the Act at the time of passing the final decree, after considering the evidence and the material produced by the petitioner.

In the circumstances, the impugned order is not in accordance with the provisions of the Act, as such, the impugned order is set aside and the learned Additional District Judge is directed to pass appropriate order in accordance with law.

With the above observations and directions, the petition stands disposed of.

In view of this order, I.A.No.5845/2004 also stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

Soma